

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 437 OF 2007
WITH
CIVIL APPLICATION NO. 605 OF 2007
IN
A.O. NO. 437 OF 2007**

Smt.Manda Vijay Maval .. Appellant.

V/s.

1.Sandeep Balasaheb Maval & Ors. .. Respondents.

Mr.Vinod Wagh for the Appellant.

CORAM : S. A. BOBDE, J.

DATED : 17th JULY, 2007.

P.C. :-

. This appeal is against the order of the learned Civil Judge, Sr.Division, Nasik, granting an injunction against the appellant from disturbing the possession of the respondent plaintiff. The respondent plaintiff had filed a suit for specific performance of contract. The appellant's case, which has been disbelieved by the courts below, is that the appellant has executed an agreement of sale by way of security to a hand loan of Rs.2 lakhs and that there was no intention to sell. The courts below have found that there are several statements by the parties even in the earlier litigation and that in the previous suit also there is a mention of

the appellant having received some amount of Rs.2 lakhs. The learned counsel for the appellant disputes the receipt in respect of which that amount was received. The trial court has, however, observed that there are two possession receipts dated 17.5.2006 and 7.12.2006. The earlier receipt of 17.8.2006 of handing over possession is executed on the date of execution of the agreement of sale. The trial court has observed vide paragraph 7 of the order that one possession receipt has been suppressed by the appellant.

2. Having regard to the circumstances of the case and the earlier litigation, the courts below have come to the conclusion that the entire consideration amount has been paid and the respondents have been put in possession of the suit land.

3. In the circumstances of the case, there is nothing illegal, prima facie, about the order of the courts below. There is no merit in the appeal. Hence, dismissed. In this view of the matter, nothing survives in the civil application.

4. The A.O. with the civil application is disposed of accordingly.

(S.A.BOBDE, J.)

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